

## TOWER SITE LEASE AGREEMENT

THIS SITE LEASE AGREEMENT (this "**Lease**") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009 ("**Execution Date**") between City of Frisco, Texas, a Texas Municipal Corporation, Tax ID #75-6000531 ("**Landlord**") and Clear Wireless LLC, a Nevada limited liability company ("**Tenant**"). The Landlord and Tenant are at times collectively referred to hereinafter as (the "**Parties**") or individually as (the "**Party**").

**1. Premises.** (a) Subject to the following terms and conditions, Landlord leases to Tenant a portion of the real property (the "**Property**") described in the attached Exhibit A. Tenant's use of the Property shall be limited to that portion of the Property, together with temporary easements for access and utilities, described and depicted in the site plan attached as Exhibit B (collectively referred to hereinafter as the "**Premises**").

(b) The Premises, located at 13770 Teel Parkway, Frisco, Texas 75034 the County of Denton, the State of Texas, comprise approximately nine hundred (900) square feet.

**2. Term.** The initial term of this Lease shall be three (3) years, commencing on the day Tenant notifies Landlord of Tenant's receipt of all applicable Government Approvals as defined below in Paragraph 3 (the "**Commencement Date**") and terminating at Midnight on the last day of the thirty-sixth (36<sup>th</sup>) full month following the Commencement Date. This Lease will automatically renew for nine (9) additional three (3) year term(s) (the "**Extension Term(s)**") upon the same terms and conditions unless either party notifies the other in writing of their intention not to renew this Lease at least ninety (90) days prior to the expiration of the existing Term.

**3. Permitted Use.** (a) The Premises may be used by Tenant only for permitted uses, which are (i) the transmission and reception of communications signals; (ii) the construction, alteration, maintenance, repair, replacement and relocation of related facilities, antennas and equipment as defined in Paragraph 8; and (iii) activities related to any of the foregoing.

(b) Tenant shall obtain (prior to or after the Commencement Date), at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises from all applicable government and/or regulatory entities (the "**Governmental Approvals**").

**4. Rent.** (a) Upon the Commencement Date, Tenant shall pay Landlord, as rent, the sum of Two Thousand Five hundred Dollars and No Cents (\$2500.00) per month ("**Rent**"). Rent shall be payable on the first day of each month, in advance, to City of Frisco, at Landlord's address specified below.

(b) If the Commencement Date should be other than the first day of a calendar month, Rent shall be prorated to the end of that calendar month. If this Lease is terminated at a time other than on the last day of a month, Rent shall be

prorated as of the date of termination for any reason other than a default by Tenant.

**5. Holdover Rent.** If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease, except as to Rent, which shall increase by fifteen percent (15%) over the most recent Term's monthly Rent.

**6. Extended Term Rent.** Upon the extension of this Lease as provided for in Section 2, Rent shall increase by nine percent (9%) over the most recent Term's monthly Rent for each and every Extended Term.

**7. Interference.** (a) Tenant shall not use the Premises in any way that interferes with the use of the Property by Landlord, or tenants or licensees of Landlord, with rights to the Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including non-interference). In the event Tenant's equipment causes radio frequency interference ("**RF Interference**"), and after Landlord has notified Tenant of such interference, Tenant will take all steps necessary to correct and eliminate the interference within forty-eight (48) hours. To the extent Tenant is unable to cure the interference within this timeframe, Tenant shall power down the equipment causing the interference except for intermittent testing until such time as the interference is remedied. If Tenant is unable to completely cure the interference within thirty (30) days of receiving notice from the Landlord as set forth above, Tenant shall remove the equipment which caused the interference, or at its option, terminate this Lease.

(b) In the event that Landlord's or any other tenant's (identified under a lease or lease amendment established after the Commencement Date of this Lease) equipment causes RF Interference, and after Tenant has notified Landlord of such interference, Landlord or any other tenant will take all steps necessary to correct and eliminate the interference within forty-eight (48) hours. To the extent Landlord or Landlord's other tenant (as previously identified) is unable to cure the interference within this timeframe, Landlord or any other tenant shall power down the equipment causing the interference except for intermittent testing until such time as the interference is remedied. If Landlord, or any other tenant described above is unable to cure the interference within thirty (30) days of receiving notice from the Tenant as set forth above, Landlord, or the subject tenant, will remove the equipment which caused the interference.

(c) The Parties acknowledge that there will not be an adequate remedy at law for non-compliance with the provisions of this paragraph 7 and therefore, either Party shall have the right to specifically enforce the provisions of this paragraph in a court of competent jurisdiction. **The premises are leased to Tenant AS-IS and Landlord makes no warranty or representation, express or implied, that the airspace used by Tenant will be free of electronic or other interference or that the Premises are fit for Tenant's Permitted Use.**

(d) Landlord shall not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way that interferes with the operations of Tenant or the rights of Tenant under this Lease, provided none of the users have any right to the Property upon the Commencement Date of this Lease. Landlord will cause any such interference to cease within forty-eight (48) hours after receipt of notice of interference from Tenant. In the event any such interference to Tenant's operations does not cease within the Cure Period, then the parties acknowledge that Tenant will suffer irreparable injury and, therefore, Tenant shall have the right, in addition to any rights that it may have at law or in equity for Landlord's breach of this Lease, to this Lease immediately.

**8. Structural Review:** An elevation plan showing the location of any modifications/alterations to the tank structure or surfaces and drawings, stamped by an engineer licensed in the State of Texas, of both the site plan and means of component attachment to tank, must be submitted to and approved by both the Landlord and, at Tenant's expense, the design team of the tank manufacturer. **Landlord requires letter of approval from the tank manufacturer prior to Tenant altering site in any way.**

**9. Improvements: Utilities: Access.**

(a) Tenant shall have the right, at its expense, to erect and maintain on the Premises the following improvements, personal property and facilities as shown in Exhibit B (collectively the "Communication Facilities"). Landlord shall approve the location of such all improvements including the Communication Facilities, and Tenant shall submit the construction plans and specifications for the Communication Facilities to Landlord for Landlord's approval, which approval shall not be unreasonably withheld or delayed. With the prior written consent of Landlord, which approval shall not be unreasonably withheld or delayed, Tenant shall have the right to replace or upgrade the Communication Facilities at any time during the term of this Lease, provided that no additional antennas, cable runs, brackets, or ground space is required. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. The Communication Facilities shall remain the exclusive property of Tenant. Tenant shall have the right to remove the Communication Facilities upon the termination of this Lease; provided Tenant returns the Premises to Landlord in the same condition as of the date of this Lease, reasonable wear and tear excepted.

(b) Tenant shall, at Tenant's expense, keep and maintain the Premises and all buildings and improvements now or hereafter located thereon in good condition and repair during the term of this Lease. Upon termination of this Lease, the Premises shall be returned to Landlord in the same condition as of the date of this Lease, reasonable wear and tear excepted.

(c) Tenant shall pay any utility charges due to Tenant's use. Tenant shall not use utilities installed by or for Landlord. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Premises (including, but not limited to the installation of emergency power generators).

Upon termination of this Lease, Tenant shall remove all utilities installed for Tenant.

(d) As partial consideration for rent paid under this Lease, Landlord hereby grants Tenant a temporary easement ("Easement") for ingress, egress and access (including access as described in Paragraph 1) to the Premises. Upon notice, Landlord shall have the right to relocate the Easement to Tenant. Any Easement provided hereunder shall terminate immediately upon the termination of this Lease. Tenant and its "authorized personnel" shall be entitled to twenty-four (24) hour, seven (7) days per week access to the Premises. For purposes hereof, authorized personnel shall mean only authorized employees, engineers, technicians, or properly authorized contractors of Tenant or persons under their direct supervision. All access to the Premises by Tenant shall be subject in each instance to the reasonable security requirements and reasonable rules and regulations from time to time in effect at the Property, of which Landlord shall inform Tenant in advance and in writing.

(e) The Landlord reserves the right, at any time, to perform any type of maintenance and/or repair on the Property; provided however, except in emergency situations, if any maintenance and/or repair work will substantially affect Tenant's permitted uses of the Premises, Landlord will use its best efforts to provide Tenant with at least sixty (60) days prior written notice of the intended repair and/or maintenance work, along with a schedule showing dates and duration of such repair and/or maintenance work. Landlord shall also provide Tenant with the opportunity, at Tenant's cost and expense, to temporarily relocate and continue to operate its antennas, or otherwise to secure the antennas or the Communication Facilities generally, to protect them from damage. Tenant shall be permitted to install temporary facilities necessary to keep its Communication Facilities operational, subject to Landlord's prior written consent, which consent shall not be unreasonably withheld. Further, any maintenance will be conducted by Landlord as diligently and expeditiously as possible. If any temporary facilities are installed as a result of this paragraph, Tenant shall remove said temporary facilities immediately upon Landlord's completion of any maintenance and/or repair work.

(f) In the event that Tenant requires access to Premises and Landlord deems Landlord's personnel's presence is required for said access then Tenant will reimburse Landlord at a rate of \$100/hour per required person. This rate will include ½ call-out time for Landlord's personnel to arrive at Premises plus time on site plus ½ hour return time from Premises for Landlord's personnel's return to normal duty area.

(g) At Tenant's sole expense, Tenant is required to install an eight foot (8') wrought iron fence around its Communication Facilities identical to those surrounding the previously existing Communications Facilities of other tenants on the Premises. If Tenant is to be the first on the Premises, then the location and construction/materials of the fence will be determined by the Landlord.

**10. Termination.** If either party breaches a provision of this Agreement, the non-breaching party shall give the other party written notice of the breach. If the breaching party has not cured the breach within thirty (30) days of such notice ("Cure Period"), except as otherwise provided herein, this Lease may be terminated by non-breaching party, without any penalty or further liability of the non-breaching party, as follows:

- a. Failing to pay Rent when due.
- b. Failing to pay taxes, assessments, insurance payments or other charges required to be paid by Tenant by this Lease.
- c. Failing to use, maintain and operate the Premises as this Lease requires.
- d. Assigning or subletting the Premises without the prior written consent of Landlord, except as permitted by Section 17 herein.
- e. Committing waste on the Premises.
- f. Maintaining, committing or permitting the maintenance or commission of a nuisance on the Premises.
- g. Denying Landlord access to the Premises.
- h. Using the Premises for any unlawful purpose, whether the purpose is in addition to or in lieu of, the uses specifically permitted by this Lease.
- i. Failure to comply with the terms and conditions of this Lease within the Cure Period.
- j. At the time the Property transfers to a condemning authority, pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking.
- k. If the Tenant elects to terminate for any other reason than provided in this subsection, the Tenant agrees to pay a fee equal to the balance of the Rent due under Lease for the remainder of the City's fiscal year. The foregoing notwithstanding, in the event that any of Tenant's applications for Governmental Approvals should be finally rejected or any Governmental Approval issued to Tenant is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that Tenant in its sole discretion will be unable to use the Premises for its intended purposes, Tenant shall have the right to terminate this Lease without the payment of any such fee.

**11. Effect of Termination.** No termination of this Lease shall relieve either party from paying any sum or sums then due and payable under this Lease, or from any claims for damages accruing under this Lease. No termination will prevent either party enforcing payment of the sum or sums or claims for damages by any remedy provided by law. The rights and remedies under this Lease are cumulative and non-exclusive, and the parties may pursue any of those rights and remedies or any other remedies provided by Texas law.

**12. Waiver.** No waiver by either party of a breach of any provision of this Lease may be deemed or alleged to be a continuing waiver or a waiver of any other breach, whether the same or of any other covenant, condition or restriction of this Lease.

**13. Insurance.** Tenant, at its own expense, shall provide and maintain in force during the term of this Lease liability insurance (covering bodily injury (including death) and property damage) in the amount of Two Million Dollars (\$2,000,000.00) naming Landlord as additional insured, with one (1) or more insurance companies authorized to transact business in Texas. Tenant will list Landlord as an additional insured and such insurance shall be carried with insurance companies authorized to transact business in Texas. Tenant shall provide Landlord with a certificate of insurance indicating such coverage prior to beginning any activities under this Lease. The certificate shall include assurance that Landlord shall be notified in writing by the insurance company or agent of any cancellation not less than thirty (30) days prior to the effective date of such cancellation. All insurance shall be with companies with a "Best's" Insurance Rating of "A-" or better.

**14. HOLD HARMLESS/RELEASE.** TENANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LANDLORD AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS OF DEFENSE) ARISING FROM THE CONDUCT OR MANAGEMENT OF TENANT'S BUSINESS ON THE PREMISES OR FROM ITS USE OF THE PREMISES; OR FROM ANY ACT OR NEGLIGENCE OF TENANT, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBTENANTS OR LICENSEES IN OR ABOUT THE PREMISES, EXCEPTING, HOWEVER, SUCH CLAIMS OR DAMAGES AS MAY BE DUE TO OR CAUSED BY THE ACTS OR OMISSIONS OF LANDLORD, OR ITS SERVANTS OR AGENTS. IF ANY ACTION OR PROCEEDING IS BROUGHT AGAINST LANDLORD BY REASON OF ANY SUCH CLAIM, TENANT, UPON NOTICE FROM LANDLORD, WILL DEFEND THE ACTION OR PROCEEDING.

LANDLORD RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, LANDLORD IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY LANDLORD IS NOT TO BE CONSTRUED AS A WAIVER OF TENANT'S OBLIGATION TO DEFEND LANDLORD OR AS A WAIVER OF TENANT'S OBLIGATION TO INDEMNIFY LANDLORD PURSUANT TO THIS AGREEMENT. TENANT SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF LANDLORD'S WRITTEN NOTICE THAT LANDLORD IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF TENANT FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, LANDLORD SHALL HAVE

THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND TENANT SHALL BE LIABLE FOR ALL COSTS INCURRED BY LANDLORD.

TENANT HEREBY FURTHER RELEASES, WAIVES, DISCHARGES, HOLDS HARMLESS, INDEMNIFIES AND AGREES NOT TO SUE LANDLORD, ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES (HEREINAFTER REFERRED TO AS THE "RELEASEES"), FOR ANY AND ALL RIGHTS AND CLAIMS ARISING FROM ANY AND ALL DAMAGES WHICH MAY BE SUSTAINED BY TENANT, THE COMMUNICATION FACILITIES AND RELATED EQUIPMENT, IN CONNECTION WITH THE USES DESCRIBED HEREIN AND/OR THE PERFORMANCE OF THIS AGREEMENT, EXCEPTING, HOWEVER, SUCH CLAIMS OR DAMAGES AS MAY BE DUE TO OR CAUSED BY THE ACTS OR OMISSIONS OF LANDLORD, OR ITS SERVANTS OR AGENTS. THE RELEASE AND WAIVER SHALL BE BINDING ON TENANT, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, SERVANTS AND ASSIGNS.

**15. Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following:

If to Landlord, to:                      City of Frisco  
Attn: Assistant City Manager  
6101 Frisco Square Blvd  
Frisco, Texas 75034

With copy to:                              Abernathy, Roeder, Boyd & Joplin, PC  
1700 Redbud, Suite 300  
McKinney, TX 75069-1210

If to Tenant, to:                          Clear Wireless LLC  
Attn: Site Leasing  
4400 Carillon Point  
Kirkland, Washington 98033

With Copy to:                              Clear Wireless LLC  
Attn: Legal Department  
4400 Carillon Point  
Kirkland, Washington 98033

**16. Title and Authority.** Landlord covenants and warrants to Tenant that Landlord has full right, power and authority to execute this Lease; it has good

and unencumbered title to the Premises free and clear of any liens or mortgages, except those disclosed to Tenant.

**17. Environmental Laws.** Landlord and Tenant each represent warrant and covenant that it will conduct its activities on the Property in compliance with all applicable Environmental Laws.

Landlord and Tenant shall each be responsible for its own environmental liabilities that relate to or arise from its respective activities on the Property to the extent required by law.

**18. Assignment and Subleasing.** Tenant may assign or sublease this Lease, in whole or in part, without Landlord's consent, to the Tenant's principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity that acquires all or substantially all of the Tenant's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition, or other business reorganization. Tenant may not otherwise assign or sublease this Lease without the prior written approval of Landlord.

Additionally, Tenant may, with the prior written consent of Landlord, mortgage or grant a security interest in this Lease and the Communication Facilities.

**19. Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

**20. Miscellaneous.**

a. This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind that are not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

b. If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker and shall hold the other party harmless from any claims for commission by such broker.

c. This Lease shall be construed in accordance with the laws of the State of Texas. Exclusive venue shall be in Collin County, Texas.

d. If any term of this Lease is found to be void or invalid, such invalidity shall not effect the remaining terms of this Lease, which shall continue in full force and effect.

e. This Lease may be executed in duplicate originals.

f. Notwithstanding anything herein to the contrary, neither Landlord nor Tenant shall be liable for the failure to perform its respective duties under this Lease if such failure is caused by a catastrophe, riot, war, governmental order or regulation, fire, accident, act of God, or other



similar or different contingency beyond the reasonable control of Landlord or Tenant.

g. The parties agree that Landlord has not waived its sovereign immunity by entering into and performing its obligations under this Lease.

h. Landlord agrees to promptly execute and deliver to Tenant a recordable Memorandum of Agreement in the form of **Exhibit C**, attached hereto.

i. Should LANDLORD, at any time during the term of this Lease, sell, lease, transfer or otherwise convey all or any part of the Property to any transferee other than TENANT, then such transfer shall be under and subject to this Lease and all of TENANT's rights hereunder.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, said parties have caused this Lease to be duly executed as of the date first above written.

LANDLORD: CITY OF FRISCO

By: \_\_\_\_\_  
Name: George Purefoy  
Its: City Manager

TENANT: CLEAR WIRELESS LLC,  
a Nevada limited liability company

By:  \_\_\_\_\_  
Name: John A. Storch  
Title: Vice President - Network Deployment

5-1-09

STATE OF TEXAS

§  
§  
§

COUNTY OF COLLIN

BEFORE ME, the undersigned authority, on this day personally appeared **George Purefoy**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the City of Frisco, Texas, and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires: \_\_\_\_\_

STATE OF

Washington

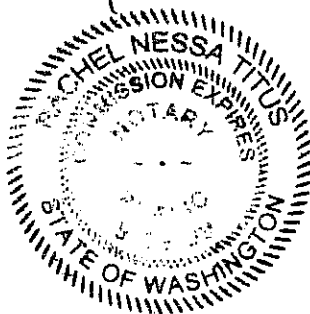
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§  
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COUNTY OF

King

BEFORE ME, the undersigned authority, on this day personally appeared John A. Smith, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **Clear Wireless, LLC** and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 1 day of May, 2009.



\_\_\_\_\_  
Notary Public in and for the State of Washington

My Commission Expires: 9/19/09

**EXHIBIT "A"**  
**Site Description**

98R06921 SJ3

RETURN TO:  
REPUBLIC TITLE OF TEXAS, INC.  
300 CRESCENT COURT, SUITE 100  
DALLAS, TEXAS 75201

**SPECIAL WARRANTY DEED**

096765

19 THE STATE OF TEXAS §

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF DENTON §

THAT THE FRISCO COMMUNITY DEVELOPMENT CORPORATION, a corporation created under the TEXAS DEVELOPMENT CORPORATION ACT OF 1979 (as "Grantor", whether one or more), for and in consideration of the sum of TEN DOLLARS AND NO/100THS DOLLARS (\$10.00) and other good and value consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD AND CONVEYED and by these presents does GRANT, SELL AND CONVEY unto THE CITY OF FRISCO, TEXAS, a municipality organized under the laws of the State of Texas (as "Grantee", whether one or more), the following described property, to-wit:

BEING a 219.034 acre tract of land situated in the H.G. Hawkins Survey, Abst. No. 589, M.E.P. and P.R.R. Company Survey, Abst. No. 941 and the W. H. Bates Survey, Abst. No. 83, in the City of Frisco, Denton County, Texas, and being a part of that called 438.168 acre tract of land conveyed to Electronic Data Systems Corporation Retirement Plan and Trust by the Deed recorded in Volume 1745, Page 608 in the Deed Records of Denton County, Texas (DRDCT), said 219.034 acre tract of land being more particularly described by metes and bounds as follows (basis of bearings is the north boundary line of the O.D. Whitsell Addition, recorded in Cabinet G, Page 329, of the Plat Records of Denton County, Texas (PRDCT) more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes.

The Property herein conveyed is subject to the following:

1. Easement granted by Clarence Matthews and wife to Brazos Electric Power Cooperative, Inc., filed June 25, 1968, recorded in Volume 568, Page 296, Deed Records of Denton County, Texas, and as shown on the survey of Paul Hubert, R.P.L.S. # 1942, dated July 24, 1998, last revised August 10, 1998;
2. Easement granted by Clarence Matthews and wife to Brazos Electric Power Cooperative, Inc., filed July 3, 1979, recorded in Volume 960, Page 701, Deed Records of Denton County, Texas, and as shown on the survey of Paul Hubert, R.P.L.S. # 1942, dated July 24, 1998, last revised August 10, 1998;
3. Easement granted by Electronic Data Systems Corporation Retirement Plan and Trust to Donald R. Dix and wife, Marlene P. Dix, filed December 7, 1988, recorded in Volume 2497, Page 805,

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Real Property Records of Denton County, Texas, and as shown on the survey of Paul Hubert, R.P.L.S. # 1942, dated July 24, 1998, last revised August 10, 1998;

4. Telephone pedestals, and power poles and lines along North property line, and as shown on the survey of Paul Hubert, R.P.L.S. # 1942, dated July 24, 1998, last revised August 10, 1998; and
5. Rights of third parties with respect to those portions of the subject property lying within the boundaries of Hawkins Road and as shown on the survey of Paul Hubert, R.P.L.S. # 1942, dated July 24, 1998, last revised August 10, 1998.

TO HAVE AND TO HOLD the Property, subject to the exceptions set forth above, unto Grantee, Grantee's successors and assigns, FOREVER; and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANTY AND FOREVER DEFEND all and singular the Property, subject to the aforesaid exceptions, unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by through or under Grantor, but not otherwise.

A covenant running with the land is hereby placed against the Property restricting its use to municipal and school related purposes (including, but not limited to, parks) and further restricting the use of the Property for purposes of the location and/or operation of any wastewater treatment plant.

Grantee accepts this conveyance with the understanding and agreement that the Property is conveyed "AS IS", "WHERE IS", in all respects and Grantor makes no representation or warranty as to the physical condition of the Property.

EXECUTED on the date of the acknowledgment, but to be effective on the 21<sup>st</sup> day of October, 1998.

FRISCO COMMUNITY DEVELOPMENT  
CORPORATION, a corporation created under the  
Texas Development Corporation Act of 1979

BY: \_\_\_\_\_

*Van Nichols*  
VAN NICHOLS, President

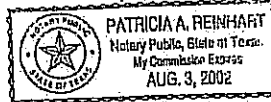
4205 00113

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF COLLIN

This instrument was acknowledged before me on the 20<sup>th</sup> day of October, 1998, by  
VAN NICHOLS, President of the FRISCO COMMUNITY DEVELOPMENT  
CORPORATION, a corporation created under the Texas Development Corporation Act of 1979,  
on its behalf.



Patricia A. Reinhardt  
NOTARY PUBLIC, STATE OF TEXAS  
NOTARY'S PRINTED NAME: Patricia A. Reinhardt  
MY COMMISSION EXPIRES: 8-3-2002

L:\MBOX\FRISCO\FCD\DEED

Exhibit A

GF-Number 98R06921

BEING a 219.034 acre tract of land situated in the H.G. Hawkins Survey, Abstract No. 589, M.E.P. and P.R.R. Company Survey, Abstract No. 941 and the W.H. Bates Survey, Abstract No. 83, in the City of Frisco, Denton County, Texas and being a part of that called 438.168 acre tract of land conveyed to Electronic Data Systems Corporation Retirement Plan and Trust by the Deed recorded in Volume 1745, Page 608 in the Deed Records of Denton County, Texas (DRDCT), said 219.034 acre tract of land being more particularly described by metes and bounds as follows (basis of bearings is the north boundary line of the O.D. Whitsell Addition, recorded in Cabinet G, Page 329, of the Plat Records of Denton County, Texas (PRDCT) being North 89 degrees 55 minutes 34 seconds West);

BEGINNING at a 5/8-inch iron rod with cap stamped "RPS 1764 Collis" found for the POINT OF BEGINNING, said corner being in the west boundary line of a tract of land conveyed to Bert Fields, Jr., by the Deed recorded in Volume 523, Page 684 and in the north boundary line of a tract of land conveyed to S.W. Christie, et ux by the Deed recorded in County Clerk's File No. 95-9628, both of the DRDCT;

THENCE South 89 degrees 34 minutes 34 seconds West, along the north boundary line of said Christie tract, a distance of 2311.70 feet to a 5/8-inch "KHA" capped iron rod set for a corner in the east boundary line of a tract of land conveyed to the trustees of the Vivian A. Stewart Trust by the Deed recorded in Volume 838, Page 507 of the DRDCT;

THENCE North 00 degrees 46 minutes 30 seconds West, along the east boundary line of said Stewart Trust tract, a distance of 1476.02 feet to a 5/8-inch "KHA" capped iron rod set for the most northerly northeast corner of said Stewart Trust tract;

THENCE North 00 degrees 45 minutes 34 seconds West, a distance of 2070.84 feet to a 5/8-inch "KHA" capped iron rod set for the southeast corner of said Fields, Jr., tract, said corner being in the approximate center of Hawkins Road;

THENCE North 00 degrees 46 minutes 51 seconds West, along the east boundary line of said Fields, Jr. tract and the approximate center of Hawkins Road, a distance of 731.58 feet to a 5/8-inch "KHA" capped iron rod set for the southwest corner of a tract of land conveyed to Bert Fields, Jr. by the Deed recorded in Volume 523, Page 684 of the DRDCT;

THENCE South 89 degrees 50 minutes 08 seconds East, along the south boundary line of said last mentioned Fields, Jr., tract, a distance of 1366.53 feet to a 1/2-inch capped iron rod found for the northwest corner of a tract of land conveyed to Horace Ainsworth by the Deed Recorded in Volume 2297, Page 846 of the DRDCT;

THENCE South 00 degrees 31 minutes 22 seconds East, along the west boundary line of said Ainsworth tract, a distance of 419.84 feet to a 5/8-inch capped iron rod found for the southwest corner of said Ainsworth tract;

THENCE North 89 degrees 58 minutes 58 seconds East, along the south boundary

4205 00115

Exhibit A (Continued)

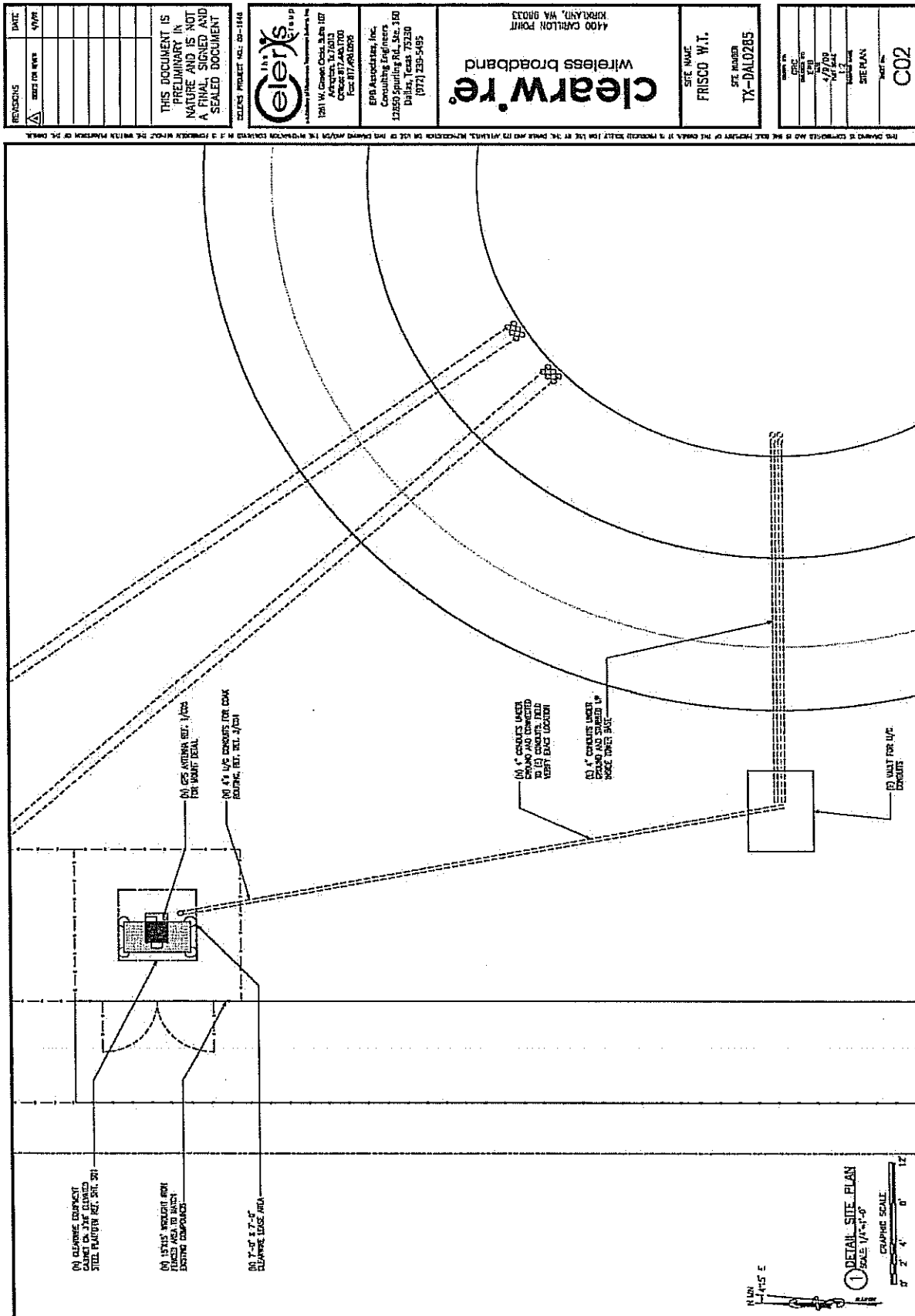
GF-Number 98R06921

line of said Ainsworth tract and the south line of that tract of land conveyed to Robert Wier, et ux, by the Deed recorded in County Clerk's File No. 93-42384, County Clerk's Records of Denton County, Texas, a distance of 985.79 feet to a 5/8-inch "KHA" capped iron rod set for the southeast corner of said Wier tract, said corner being in the west boundary line of the aforementioned Fields, Jr., tract per the Deed recorded in Volume 523, Page 684 of the DRDCT;

THENCE South 00 degrees 11 minutes 32 seconds East, along said west boundary line, a distance of 3837.52 feet to the POINT OF BEGINNING and containing 219.034 acres of land.



# Exhibit "B" Site Plan



**Exhibit "C"**  
**Memorandum of Lease Agreement**

**TOWER SITE LEASE AGREEMENT**

**Memorandum of Agreement**

This Memorandum of Agreement ("Memorandum") dated \_\_\_\_\_, 2009, evidences that a lease was made and entered into by a written Tower Site Lease Agreement (the "Agreement") dated \_\_\_\_\_, 2009, between City of Frisco, a Texas Municipal Corporation ("Landlord") and Clear Wireless LLC, a Nevada limited liability company ("Tenant").

The Agreement provides in part that Landlord leases to Tenant certain real property owned by Landlord and located at 13770 Teel Parkway, City of Frisco, County of Collin, State of Texas, together with non-exclusive easements for reasonable access thereto, for placement of an underground grounding system, and for access to the appropriate source of electric and telephone facilities (the "Premises"). The Site is further described in Exhibit "A" attached hereto. The term of the Agreement is three (3) years commencing on \_\_\_\_\_, 2009, which term is subject to nine (9) additional terms of three (3) years each that may be exercised by Tenant.

The parties have executed this Memorandum as of the day and year first above written.


**Landlord**

**City of Frisco, a Texas Municipal Corporation**

By: \_\_\_\_\_  
Name: George Purefoy  
Title: City Manager  
Address: 6101 Frisco Square Blvd.  
Frisco, TX 75034  
Contact Phone Number: 972-292-5106

**Tenant**

**Clear Wireless LLC, a Nevada limited liability company**

By:  \_\_\_\_\_  
Name: John A Storch  
Vice President - Network Deployment  
Title: \_\_\_\_\_

Address:  
c/o Clear Wireless LLC  
Attn: Legal Department  
4400 Carillon Point  
Kirkland, Washington 98033